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PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In re application of

SEP 21 2001

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OOSAKA, SHIGENORI, et al.

OFFICE OF PETITIONS

AUG 13 2001

Appln. No. 09/842,984

Group Art Unit: Not yet assigned
Technology Center 2600

Confirmation No.: Not yet assigned

Examiner: Not yet assigned

Filed: April 27, 2001

For: FILM IMAGE INPUT SYSTEM

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**PETITION UNDER 37 C.F.R. § 1.182 FOR ACCORDATION
OF FILING DATE**

SEP 19 2001

Commissioner for Patents
Washington, D.C. 20231

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Sirs:

Applicants are submitting this Petition in partial response to the "Notice of Incomplete NonProvisional Application" letter dated May 18, 2001 in the subject application (copy attached). As indicated in the "Notice", the present application was not accorded a filing date originally because the application as filed ostensibly did not include any claims. Since this application was filed as a Rule 53(b) divisional, the specification copy as filed of course did include claims; however, owing to a transcription error in Applicants' filing cover letter, all of the existing claims were inadvertently cancelled.

Applicants have cured the noted error by way of a Preliminary Amendment dated June 13, 2001, in which a claim (claim 46) was added to the application. Applicants respectfully submit that the filing of the Preliminary Amendment on June 13, 2001 completes the

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requirements for accordation of a filing date, and herewith petitions for accordation of a filing date of June 13, 2001.

The PTO "Notice" of May 18, 2001, however, indicates that a filing date will not be granted absent the satisfaction of one additional criteria, i.e., the submission of "a newly executed oath or declaration covering the items". The "items" in this case are of course the added claim or claims. Applicants do not see any authority within the PTO rules for such a requirement, and therefore are petitioning for a filing date despite having not submitted the required new declaration.

Applicants admit that the PTO's requirement would be appropriate in the case of an original application filing. However, the present application was filed as a Rule 53(b) divisional, whereby only a copy of the original parent declaration is required to be filed. Applicants cannot see how the inadvertent cancellation of the claims in the application filing documents somehow convert the present application from one which does not require a new declaration to one that does. Further in this regard, it is noted that the claim that has been added to the present application (claim 46) has been pending the parent application since May 12, 2000, and therefore it is apparent that there can be no argument but that this claim is "covered" by the original declaration submitted in the parent case. The parent is still pending at the present time.

In summary, Applicants submit that the present application should be accorded a filing date of June 13, 2001, that being the date on which all statutory requirements for a filing date were originally met. Applicants request that the extra-legal requirement for a new declaration be waived or dismissed, inasmuch as the same would not appear to be appropriate in the case of a

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continuing application where nothing "new" has been added, and where the addition of new claims would in any event be "covered" under the original declaration submitted in the parent application.

The \$130.00 fee for this Petition is attached. Please charge any additional fees due to our Deposit Account No. 19-4880. A duplicate copy of this Petition is attached. In the event that Applicants prevail on this Petition, Applicants request a refund of the Petition fee.

Respectfully submitted,



Richard C. Turner
Registration No. 29,710

SUGHRUE, MION, ZINN,
MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, N.W.
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

Date: July 18, 2001

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